

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

**In the Matter of the Accusation
Against:**

Robert Owen Barnes, M.D.

Case No. 800-2016-024055

**Physician's and Surgeon's
Certificate No. G 33370**

Respondent

DECISION

**The attached Stipulated Surrender of License and Order is hereby adopted
as the Decision and Order of the Medical Board of California, Department of
Consumer Affairs, State of California.**

This Decision shall become effective at 5:00 p.m. on March 5, 2019.

IT IS SO ORDERED February 26, 2019.

MEDICAL BOARD OF CALIFORNIA

By: 
Kimberly Kirchmeyer
Executive Director

1 XAVIER BECERRA
Attorney General of California
2 STEVEN D. MUNI
Supervising Deputy Attorney General
3 JANNSEN TAN
Deputy Attorney General
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7 *Attorneys for Complainant*

8
9 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 800-2016-024055

13 **ROBERT OWEN BARNES, M.D.**
14 **427 Pine St.**
Grass Valley, CA 95945-7351

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

15 **Physician's and Surgeon's Certificate No. G**
16 **33370**

17 Respondent.

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19
20 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
21 entitled proceedings that the following matters are true:

22 **PARTIES**

23 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board
24 of California (Board). She brought this action solely in her official capacity and is represented in
25 this matter by Xavier Becerra, Attorney General of the State of California, by Jannsen Tan,
26 Deputy Attorney General.

27 2. Robert Owen Barnes, M.D. (Respondent) is representing himself in this proceeding
28 and has chosen not to exercise his right to be represented by counsel.

3. On or about December 6, 1976, the Board issued Physician's and Surgeon's Certificate No. G 33370 to Robert Owen Barnes, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2016-024055 and will expire on July 31, 2019, unless renewed.

JURISDICTION

4. Accusation No. 800-2016-024055 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on November 8, 2018. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 800-2016-024055 is attached as Exhibit A and incorporated by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, and understands the charges and allegations in Accusation No. 800-2016-024055. Respondent also has carefully read, and understands the effects of this Stipulated Surrender of License and Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent understands that the charges and allegations in Accusation No. 800-2016-024055, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

9. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual basis for the charges in the Accusation and that those charges constitute cause for discipline. Respondent hereby gives up his right to contest that cause for discipline exists based on those charges.

10. Respondent understands that by signing this stipulation he enables the Board to issue an order accepting the surrender of his Physician's and Surgeon's Certificate without further process.

RESERVATION

11. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Medical Board of California or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

CONTINGENCY

12. Business and Professions Code section 2224, subdivision (b), provides, in pertinent part, that the Medical Board “shall delegate to its executive director the authority to adopt a stipulation for surrender of a license.”

13. This Stipulated Surrender of License and Disciplinary Order shall be subject to approval of the Executive Director on behalf of the Medical Board. The parties agree that this Stipulated Surrender of License and Disciplinary Order shall be submitted to the Executive Director for her consideration in the above-entitled matter and, further, that the Executive Director shall have a reasonable period of time in which to consider and act on this Stipulated Surrender of License and Disciplinary Order after receiving it. By signing this stipulation, Respondent fully understands and agrees that he may not withdraw his agreement or seek to rescind this stipulation prior to the time the Executive Director, on behalf of the Medical Board, considers and acts upon it.

14. The parties agree that this Stipulated Surrender of License and Disciplinary Order shall be null and void and not binding upon the parties unless approved and adopted by the

1 Executive Director on behalf of the Board, except for this paragraph, which shall remain in full
2 force and effect. Respondent fully understands and agrees that in deciding whether or not to
3 approve and adopt this Stipulated Surrender of License and Disciplinary Order, the Executive
4 Director and/or the Board may receive oral and written communications from its staff and/or the
5 Attorney General's Office. Communications pursuant to this paragraph shall not disqualify the
6 Executive Director, the Board, any member thereof, and/or any other person from future
7 participation in this or any other matter affecting or involving Respondent. In the event that the
8 Executive Director on behalf of the Board does not, in her discretion, approve and adopt this
9 Stipulated Surrender of License and Disciplinary Order, with the exception of this paragraph, it
10 shall not become effective, shall be of no evidentiary value whatsoever, and shall not be relied
11 upon or introduced in any disciplinary action by either party hereto. Respondent further agrees
12 that should this Stipulated Surrender of License and Disciplinary Order be rejected for any reason
13 by the Executive Director on behalf of the Board, Respondent will assert no claim that the
14 Executive Director, the Board, or any member thereof, was prejudiced by its/his/her review,
15 discussion and/or consideration of this Stipulated Surrender of License and Disciplinary Order or
16 of any matter or matters related hereto.

17 **ADDITIONAL PROVISIONS**

18 15. This Stipulated Surrender of License and Disciplinary Order is intended by the parties
19 herein to be an integrated writing representing the complete, final and exclusive embodiment of
20 the agreements of the parties in the above-entitled matter.

21 16. The parties agree that copies of this Stipulated Surrender of License and Disciplinary
22 Order, including copies of the signatures of the parties, may be used in lieu of original documents
23 and signatures and, further, that such copies and signatures shall have the same force and effect as
24 originals.

25 17. In consideration of the foregoing admissions and stipulations, the parties agree the
26 Executive Director of the Medical Board may, without further notice to or opportunity to be heard
27 by Respondent, issue and enter the following Disciplinary Order on behalf of the Board:
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1. The surrender of Respondent's Physician's and Surgeon's Certificate and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board.

3. Respondent shall cause to be delivered to the Board his pocket license and, if one was issued, his wall certificate on or before the effective date of the Decision and Order.

5. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in Accusation, No. 800-2016-024055 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

I have carefully read the Stipulated Surrender of License and Order. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

1 DATED: 02/07/19

2 
3 ROBERT OWEN BARNES, M.D.
4 Respondent

5 **ENDORSEMENT**

6 The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted
7 for consideration by the Medical Board of California of the Department of Consumer Affairs.

8 Dated: 2/14/2019

9 Respectfully submitted,

10 XAVIER BECERRA
11 Attorney General of California
12 STEVEN D. MUNI
13 Supervising Deputy Attorney General

14 
15 JANNSEN TAN
16 Deputy Attorney General
17 Attorneys for Complainant

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Exhibit A

Accusation No. 800-2016-024055

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7 Attorneys for Complainant

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO NOV 8 2018
BY D. Richards ANALYST

8
9 **BEFORE THE**
10 **MEDICAL BOARD OF CALIFORNIA**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 800-2016-024055

13 **Robert Owen Barnes, M.D.**
14 **427 Pine St.**
Grass Valley, CA 95945-7351

ACCUSATION

15 **Physician's and Surgeon's Certificate**
16 **No. G 33370,**

17 Respondent.

18
19 Complainant alleges:

20 **PARTIES**

21 1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official
22 capacity as the Executive Director of the Medical Board of California, Department of Consumer
23 Affairs (Board).

24 2. On or about December 6, 1976, the Medical Board issued Physician's and
25 Surgeon's Certificate No. G 33370 to Robert Owen Barnes, M.D. (Respondent). The Physician's
26 and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
27 herein and will expire on July 31, 2019, unless renewed. On or about September 28, 2018,
28 Respondent entered into a Stipulated Interim Order of Suspension, voluntarily suspending his

1 practice of medicine until conclusion of all proceedings involving Respondent's Physician's and
2 Surgeon's Certificate.

3 JURISDICTION

4 3. This Accusation is brought before the Board, under the authority of the following
5 laws. All section references are to the Business and Professions Code unless otherwise indicated.

6 4. Section 2227 of the Code states:

7 "(a) A licensee whose matter has been heard by an administrative law judge of the
8 Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or
9 whose default has been entered, and who is found guilty, or who has entered into a stipulation for
10 disciplinary action with the board, may, in accordance with the provisions of this chapter:

11 "(1) Have his or her license revoked upon order of the board.

12 "(2) Have his or her right to practice suspended for a period not to exceed one year upon
13 order of the board.

14 "(3) Be placed on probation and be required to pay the costs of probation monitoring upon
15 order of the board.

16 "(4) Be publicly reprimanded by the board. The public reprimand may include a
17 requirement that the licensee complete relevant educational courses approved by the board.

18 "(5) Have any other action taken in relation to discipline as part of an order of probation,
19 as the board or an administrative law judge may deem proper.

20 "(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical
21 review or advisory conferences, professional competency examinations, continuing education
22 activities, and cost reimbursement associated therewith that are agreed to with the board and
23 successfully completed by the licensee, or other matters made confidential or privileged by
24 existing law, is deemed public, and shall be made available to the public by the board pursuant to
25 Section 803.1."

26 5. Section 2220 of the Code states:

27 "Except as otherwise provided by law, the board may take action against all persons guilty
28 of violating this chapter. The board shall enforce and administer this article as to physician and

1 surgeon certificate holders, including those who hold certificates that do not permit them to
2 practice medicine, such as, but not limited to, retired, inactive, or disabled status certificate
3 holders, and the board shall have all the powers granted in this chapter for these purposes
4 including, but not limited to:

5 “(a) Investigating complaints from the public, from other licensees, from health care
6 facilities, or from the board that a physician and surgeon may be guilty of unprofessional conduct.
7 The board shall investigate the circumstances underlying a report received pursuant to Section
8 805 or 805.01 within 30 days to determine if an interim suspension order or temporary restraining
9 order should be issued. The board shall otherwise provide timely disposition of the reports
10 received pursuant to Section 805 and Section 805.01.

11 “(b) Investigating the circumstances of practice of any physician and surgeon where there
12 have been any judgments, settlements, or arbitration awards requiring the physician and surgeon
13 or his or her professional liability insurer to pay an amount in damages in excess of a cumulative
14 total of thirty thousand dollars (\$30,000) with respect to any claim that injury or damage was
15 proximately caused by the physician’s and surgeon’s error, negligence, or omission.

16 “(c) Investigating the nature and causes of injuries from cases which shall be reported of a
17 high number of judgments, settlements, or arbitration awards against a physician and surgeon.”

18 6. Section 820 of the Code states:

19 “Whenever it appears that any person holding a license, certificate or permit under this
20 division or under any initiative act referred to in this division may be unable to practice his or her
21 profession safely because the licentiate’s ability to practice is impaired due to mental illness, or
22 physical illness affecting competency, the licensing agency may order the licentiate to be
23 examined by one or more physicians and surgeons or psychologists designated by the agency.
24 The report of the examiners shall be made available to the licentiate and may be received as direct
25 evidence in proceedings conducted pursuant to Section 822.”

26 7. Section 821 of the Code provides that the licentiate’s failure to comply with an
27 order issued under section 820 shall constitute grounds for the suspension or revocation of the
28 licentiate’s certificate of license.

1 8. Section 822 of the Code states:

2 “If a licensing agency determines that its licensee’s ability to practice his or her
3 profession safely is impaired because the licensee is mentally ill, or physically ill affecting
4 competency, the licensing agency may take action by any one of the following methods:

5 “(a) Revoking the licensee’s certificate or license.

6 “(b) Suspending the licensee’s right to practice.

7 “(c) Placing the licensee on probation.

8 “(d) Taking such other action in relation to the licensee as the licensing agency in its
9 discretion deems proper.

10 “The licensing section shall not reinstate a revoked or suspended certificate or license
11 until it has received competent evidence of the absence or control of the condition which caused
12 its action and until it is satisfied that with due regard for the public health and safety the person’s
13 right to practice his or her profession may be safely reinstated.”

14 **CAUSE FOR RESTRICTION AND/OR REVOCATION**
15 **(Mental or Physical Illness Affecting Competency to Practice Medicine)**

16 9. Respondent’s Physician’s and Surgeon’s Certificate No. G 33370 is subject to
17 action under section 821, and 822 of the Code in that he failed to comply with the Board’s order
18 for an evaluation and his ability to practice medicine safely is impaired because he is mentally or
19 physically ill affecting competency, as more particularly alleged hereinafter.

20 10. On or about June 24, 2016, the Medical Board of California (MBC) received a
21 complaint against Respondent, involving his practice of medicine. The Board assigned the matter
22 to Board Investigator AB (Investigator AB) for investigation.

23 11. On or about September 19, 2017, Investigator AB proceeded to Respondent’s
24 business address. Investigator AB spoke with SP¹ who identified himself as a Nurse Practitioner.

25 12. SP said that some of Respondent’s patients needed drug screens and needed to
26 come into the practice to be seen. In particular, one patient on high dose methadone, needed to
27 come in for an EKG, which SP had told Respondent. Over the last few months, SP started to take

28 ¹ Witness names have been redacted and will be provided in Discovery.

1 over the pain management patients from Respondent. SP stated that Respondent was "very
2 slow." There had been no "intellectual drop-off" since the Respondent suffered a stroke but SP
3 thinks the stroke affected Respondent's motor coordination.

4 13. On or about September 19, 2017, Investigator AB proceeded to Respondent's
5 address. Investigator AB interviewed Respondent. Respondent stated that he was feeling a "little
6 sick" that day. He stated he had a couple of small strokes last year, and since then it has been
7 "one thing after another." Respondent added that he has spinal stenosis in his neck, for which he
8 takes methadone. Respondent still works three "short" days per week.

9 14. Investigator AB asked Respondent about his strokes. Respondent stated that he
10 gets atrial fibrillation (AF), which caused his strokes. He stated that he has a family history of
11 panic disorder, which he said he has "really bad." Respondent added that since his stroke he has
12 lost some memory. He experiences momentary lapses in memory when doing paperwork.
13 Respondent said, "Like I can't remember what I should send to a pharmacy." Respondent also
14 said during the interview he had bad hearing.

15 15. On or about February 20, 2018, a petition to compel a mental and physical
16 examination under Business and Professions Code 820 was filed against Respondent. The Board
17 granted the petition on April 17, 2018. The Board ordered Respondent to undergo examinations
18 in neurology, psychiatry, and neuropsychology. The Board also ordered Respondent to submit to
19 biological fluid testing. The examination shall be conducted at a mutually convenient time, but
20 no later than 30 days after service of the order.

21 16. On or about August 30, 2018, Respondent emailed Investigator AB that he decided
22 not to schedule the appointments to undergo examinations for neurology, psychiatry, and
23 neuropsychology. Respondent reported he intended to retire and was wrapping up with a
24 "handful of patients." Respondent wrote, "My recent memory and my ability to focus attention
25 for sustained periods are both impaired." Respondent requested to "skip the formal medical
26 evaluation."

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4. Taking such other and further action as deemed necessary and proper.

Kimberly Kirchmeyer
KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant